

Service Date: April 16, 1985

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER Of The Application)
Of The Town of West Yellowstone) DOCKET NO. 84.9.48
To Establish Rates And Charges For)
Sewer Service) ORDER NO. 5090a

FINAL ORDER

APPEARANCES

FOR THE APPLICANT:

Pete Linebarger
Town Attorney
Town of West Yellowstone
Box 579
West Yellowstone, Montana 59758

FOR THE COMMISSION:

Robert Nelson
Staff Attorney
2701 Prospect Avenue
Helena, MT 59620

BEFORE:

John Driscoll, Commissioner and Hearing Examiner

BACKGROUND

1. On September 4, 1984, the Town of West Yellowstone (Applicant or City) filed an application with this Commission for authority to establish sewer rates and charges for its West Yellowstone, Montana, service area. The Applicant requested that the Commission approve permanent rates that would generate

approximately \$37,500 in annual revenues.

2. On September 28, 1984, the Town filed a petition requesting the Commission to approve interim rates that would generate approximately \$37,500 in annual revenues, representing interim approval of its proposed permanent rate schedule.

3. On October 11, 1984, the Commission, having considered the data submitted with the Applicant's interim application, issued Order No. 5090 granting the Town interim rate relief in the amount of \$37,500 annually.

4. On February 6, 1985, pursuant to notice of public hearing, a hearing was held in the Professional Building, Court Annex, West Yellowstone, Montana. The purpose of the hearing was to consider the merits of the Applicant's proposed rates. At the close of the hearing, the parties stipulated to allow the Commission to issue a final order in this Docket .

FINDINGS OF FACT

5. At the public hearing, the Applicant presented the testimony and exhibits of the following witnesses:

Larry Binfet, Mayor

Harold Eagle, Consulting Engineer

These witnesses testified relative to: acquisition of the sewer utility, projected operation and maintenance expense, the need for capital improvement funding, rate structure and revenue

projections.

6. Three public witnesses appeared and offered testimony at the hearing. The main concerns expressed by these witnesses were: the proposed assessment of a hook-up fee against city lots not currently connected to the sewer system, objections to the proposed abutting lot rule and rate structure concerns relative to seasonal business operations.

7. On May 17, 1984, the Town of West Yellowstone acquired the sewer facilities contained in Rural Improvement District Number 304 from Gallatin County, which was the entity providing sewer service to consumers in the West Yellowstone, Montana area. With the acquisition of the sewer facilities, it became the responsibility of the Town to provide sewer service to consumers in the West Yellowstone area and necessitated the filing of rates with this Commission for provision of that service.

OPERATION AND MAINTENANCE EXPENSES

8. The Applicant in this case has presented operation and maintenance expenses totaling \$33,500 annually. The Applicant's presentation of these expenses includes actual historical information and projections based upon anticipated expenditures for accounts having no historical data.

9. Prior to its acquisition of the sewer utility from Gallatin County, the Town of West Yellowstone acted as sewer utility operating agent for the County; therefore, certain expenses presented by the Town in this application could be ascertained and documented through an examination of their books and records.

In general, for previously documented items of expense, the Applicant has developed budgeted operation and maintenance expenses, using fiscal year 1983 as a base for all projections. The Applicant has indicated that previously experienced expenses will be \$24,600 for the projected budget period.

10. Because the Town has just recently obtained full operating responsibility for the sewer utility, it is unable to provide the Commission with historical expense data for certain utility related operating expenses. These expenses include such items as: Administration, Billing and Collecting, Temporary Employees and Engineering and Legal. Since Gallatin County was the entity responsible for operation of the sewer utility prior to Town acquisition, it was the County's responsibility to provide funding for such items of expense. Due to the absence of historical data relating to general overhead, the Town provided anticipated expenditure levels for these items of expense during the budget period. The Town indicated that general overhead expense would total \$8,900 annually.

11. All of the testimony in this case supported the Town's budgeted level of operation and maintenance expense for the sewer utility. Absent substantial historical data for all expense accounts to use as a base for determining the reasonableness of the budgeted expense levels, the Commission must draw upon its past experience with utilities of a similar size in determining the reasonableness of the Applicant's proposed expenses. The Commission concludes the operation and maintenance expenses, as presented by the Applicant, are within a zone of reasonableness when compared to utilities of a similar size and, therefore,

accepts the proposed expense level of \$33,500 annually.

CAPITAL IMPROVEMENT PROGRAM

12. The Town is proposing that the Commission grant revenues which are sufficient to allow for funding of a Recurring Annual Capital Improvement Program (RACIP). Granting revenues which are sufficient to allow for the funding of a RACIP, in the Town's view, would enhance the Town's ability to provide reasonably adequate sewer service and maintain the integrity of the current facilities.

13. At page 6-5, of Exhibit 1, the Applicant outlined a three year capital improvement program with a total cost of \$18,000. Amortization of these program costs over a three year period would require annual funding at the level of \$6,000, and result in completion of the RACIP in the time frame outlined. The Town, however, has chosen to extend the term of the RACIP and requested that the Commission grant funding at the level for \$4,000 annually.

14. The Commission fully supports the adequate funding of a RACIP when it is tied to a schedule of contemplated system improvements, similar to that outlined in this case. Funding of a RACIP, in the Commission's view, is good management and good regulation because it provides funding for adequate maintenance of the existing utility facilities. Based on the testimony in this case, the Commission finds the Applicant's proposed RACIP to be reasonably prudent and the funding level of \$4,000 annually sufficient to allow for completion of the program outlined.

REVENUE NEED

15. The Commission, based upon the Findings of Fact contained herein, finds that the Applicant has an annual revenue requirement of \$37,500. This requirement is calculated as follows:

Operating Expenses	\$33,500
RACIP	<u>4,000</u>

Total Revenue Requirement \$37,500

16. The Town's rate study indicates that the proposed user charge system, requested by the City in this application, will generate approximately \$37,500 in annual revenues. The test period user charge revenues are not a contested issue in this case and are, therefore, accepted by the Commission.

RATE DESIGN

17. One consumer witness expressed concern regarding the Applicant's proposed rate structure insofar as it related to the assessment of charges against seasonal commercial users. This witness noted that the annual sewer charge for seasonal commercial users was calculated using the same estimated annual flow for both seasonal and non-seasonal establishments, i.e., Motel, per bed, 15,000 gallon annual flow, seasonal or non-seasonal.

The Commission has examined the Applicant's rate study, which was submitted in support of its rate proposal, and is of the opinion that the Applicant has attempted to fairly and equitably

determine the estimated flows for various customer classifications, be they seasonal or non-seasonal. In the rate study, the Applicant has applied a utilization factor, decreasing the estimated flows to reflect both the seasonal nature of business in the area and occupancy or expected use levels.

18. The information submitted by the Applicant in support of its rate determination is the best information available, and while it may create a certain degree of inequity between individual customers, it must be recognized that this condition exists with the implementation of any flat rate structure. The only way to insure that each customer is paying his equitable share is by the installation of meters wherein each customer would pay for the actual amount of waste discharged to the system. In the Town of West Yellowstone, metering of the system is not feasible because each connection has a separate source of water, owned by the consumer (utilities with metered water systems generally assess sewer charges based on water consumption).

19. The Applicant, in this filing has proposed the implementation of a minimum charge assessment against all vacant lots within its service area having sewer mains adjacent to the property. The Town alleges that consumers presently connected to the sewer system and receiving service should not be obligated to carry the revenue burden of fixed costs and capital costs for maintaining service availability to undeveloped lots. No objections regarding implementation of this charge were voiced during the course of this proceeding and the Commission being cognizant of the fact that there are costs associated with the maintenance of service availability to vacant lots, finds that charge acceptable.

20. In conjunction with its assessment of a minimum charge against vacant lots, the Applicant proposed the implementation of an "Abutting Lot" rule. This rule provides that, if a single property owner has one or more vacant lots abutting each other, only one minimum charge assessment will be made against those lots. While at first blush this rule may appear to be reasonable, the Commission is of the opinion that it should be rejected.

Testimony presented during the hearing indicated that the Madison Addition, which is a housing development newly annexed to the Town and consists of several hundred lots owned by the same party, is connected to the sewer facilities. The rationale for implementation of the vacant lot assessment is the equitable recovery of fixed costs and capital costs associated with maintaining service availability to vacant lots; the non-recognition of a substantial number of abutting lots, and their responsibility toward recovery of costs, results in a gross inequity. The Commission, based upon the preceding Finding of Fact, finds the "Abutting Lot" rule proposed by the Applicant should be denied.

21. Except as previously discussed herein, the rate structure of the Applicant, as filed with the original application, is approved by the Commission.

MISCELLANEOUS

22. The Town is requesting authorization to implement a \$375 connection fee (per residential equivalent) for all new connections to the sewer utility facilities. One of the consumer residing within the limits of the "old" town site objected to

assessment of this fee against properties located within the boundaries of the Rural Special Improvement District which originally funded construction of the existing sewer facilities.

23. City witnesses testified that the proceeds from collection of a sewer connection fee would be placed in an interest bearing capital improvement fund, with disbursements from that fund occurring when expanded facilities are needed to insure adequate service as additional customers are added to the system. The only additional connections to the system that would require the expansion of existing facilities are those that will occur in the Madison Addition. If the Madison Addition had not been connected to the existing sewer facilities, no plant expansion would be necessary, because the original design criterion of the existing utility facilities should have allowed for growth and full utilization of properties located within the "old" town site which was the service area for which facilities were designed. Given the Town's explanation that proceeds from the collection of a connection fee would be used to finance an expansion of facilities, the Commission finds it improper to assess said charge against properties located within the original boundaries of the Rural Special Improvement District.

23. Generally, it is not this Commission's policy to allow a utility to make an assessment against new connections for accumulation of a construction fund as previously described, but it is the Commission's policy to collect costs from the cost causer. In this instance, the Commission will deviate from its general policy because the Town has identified a need for expansion of presently existing facilities as additional consumers located within the Madison Addition connect to the

sewer system. Therefore, the Town has identified the cost causer and the party responsible for payment of costs associated with the provision of service.

24. The implementation of a connection fee against new connections within the Madison Addition is reinforced, in the Commission's opinion, by Addendum No. 1 to the Development Agreement of December 12, 1982, entered into between West Associates, Limited (developer of the Madison Addition) and the Town of West Yellowstone. This agreement identifies specific construction projects that must be undertaken after a specified number of units within the Madison Addition have been constructed. This agreement gives a clear indication that the existing facilities will become inadequate and that this inadequacy results from the allowance of the additional connections within the Madison Addition.

25. Based upon the preceding Findings of Fact, the Commission finds that the Town would be allowed to implement a \$375 connection fee (per residential equivalent) for assessment against all new connections located within the boundaries of the Madison Addition. The proceeds from said connection fee should be placed in an interest bearing account and disbursed for construction of additional facilities needed for the provision of adequate service.

CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercises jurisdiction over the parties and subject matter in this proceeding. Title 69, Chapters 3 and 7, MCA.
2. The Montana Public Service Commission has afforded all parties interested in this proceeding proper notice, and an opportunity to participate. Section 69-3-303, MCA, and Title 2, Chapter 4, MCA.
3. The rates approved herein are reasonable, just and proper. Section 69-3-201.

ORDER

1. The Town of West Yellowstone shall file rate schedules that generate annual revenues in the amount of \$37,500 for its West Yellowstone, Montana service area. These revenues are in lieu of, and not in addition to, the revenues granted in this Commission's Order No. 5090.
2. The rates and rate structure approved for the Town of West Yellowstone in Interim Order No. 5090 are hereby made permanent.
3. The Town of West Yellowstone is authorized to implement a sewer connection in a manner consistent with the Finding of Fact contained herein.
4. The "Abutting Lot" rule proposed by the Town of West

Yellowstone regarding the assessment of rates is rejected.

DONE IN OPEN SESSION at Helena, Montana this 15th day of April,
1985 by a vote of 5 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

CLYDE JARVIS, Chairman

HOWARD L. ELLIS, Commissioner

JOHN B. DRILSCOLL, Commissioner

DANNY OBERG, Commissioner

TOM MONAHAN, Commissioner

ATTEST:

Trenna Scoffield
Commission Secretary
(SEAL)

NOTE: Any interested party may request the Commission to
reconsider this decision. A motion to reconsider must
be filed within ten (10) days. See ARM 38.2.4806.